1: Swanton E-5 (1911-12)1928 NN11 Creek NN11

177

building or repairing the town council houses, etc.; in many instances, to leave their crops and go a distance of 20 or 30 miles;—this service is enforced, too, under a penalty of a pecuniary fine. The settlements of the Lower Towns extend from the Verdigris river, on it and between it and the Arkansas, on both banks, to the Red fork, a distance of about eighty miles, and an average breadth of fifty. They are separated from the settlements of the Upper Towns by an uninterrupted prairie, extending from the bottoms of the Arkansas, south, to those of the north fork of the Canadian, a distance of about forty miles; they [the Upper Towns] extend from there, westward, between and on the Deep fork, North fork, and Main Canadian, to Little river, a distance of about eighty miles, and an average breadth of about sixty. From their peculiar location, they have less intercourse with the whites, and consequently do not exhibit so much improvement. Their dress, too, is more after the aboriginal form; they are forbidden to adopt that of the whites under penalty of lashes; they are, however, generally speaking, more enterprising and industrious; they grow cotton, and practise the domestic arts of spinning and weaving to a greater extent than the others. Cases of extreme poverty are more rarely to be met with. The chiefs are more generous, and their policy more liberal than those of the Lower Towns. In addition to the two blacksmiths' shops, furnished them by treaty stipulations, they have a public shop, which is supported out of their portion of the annuity; they have also devoted a portion of it to the erection of a water mill, and the support of a millwright; they have also a wheelwright, but he is paid by the government; they have not so much wealth as the Lower Town chiefs, generally speaking—(the McIntosh family are supposed to be worth $150,000 and B. Marshall some $50,000) yet *they* contribute nothing towards anything of this kind—alleviating the distresses of the poor, or to affecting any improvement in their country; however, it is reported that Opothleyoholo is by far the richest man in the whole nation."[99]

642
671

Hitchcock informs us that the Creek laws were compiled, or rather digested, in 1826 before the emigration and that an abstract of the digest was approved by a general council in 1840. Mr. N. L. Alexander, the Creek through whom Hitchcock obtained access to these, did not think that the first written laws antedated about the year 1822, but Hitchcock himself remarks that the year "1817" was entered opposite the law punishing murder. He adds:

"Most of the laws—there are but few altogether—relate to the punishment of the most prominent crimes, known as such among all men, and the regulation of property rights. They scarcely touch upon the ancient customs and usages of the Nation which are for the most part left in full force. Infanticide was formerly not uncom-

[99] James Logan, in Indian Affairs Report, 1845, pp. 814-817.

1: Swanton E-5 (1911-12)1928 NN11 Creek NN11

642 mon; it is prohibited by the written laws. An attempt was made in
671 1840 to abolish a custom giving to the relations of a husband on his death the power of keeping the widow secluded and forbidding her second marriage for a period of four years. They attempted to restrict the period to 12 months, but the people would not listen to it and the council yielded to the public voice and repealed the law in 1841." [1]

PROPERTY

421 So many old Creek customs, usages, and laws have become lost or obscured that it is difficult to reconstruct the primitive system with any certainty from what is remembered at the present day. With regard to property it is to be noted that two strong influences constantly operated to dilute the sense of individual ownership. These influences were the powerful kinship system and the abundance and accessibility of all of those things—or the raw materials of those things—necessary in aboriginal life. The value which we attach to things is dependent to a very considerable extent on the ease with which we can replace them.

[574] As was usual among primitive people, strangers were provided with food and a place to sleep gratis. This might be in the community hot house, or, after the clan of the visitor had been revealed, in the home of some man married into that clan. Regarding chattels we could wish the information from these Indians were more specific. Adair "observed with much inward satisfaction the community of goods that prevailed among them" but he immediately begins to speak of their hospitality in the matter of food and shelter which is quite a different matter.[2] Bartram says:

"Now, although it appears that these people enjoy all the advantages of freedom and private property, and have laws, usages, and customs, which secure each one his rights according to reason, justice, and equality, the whole tribe seems as one family or community, and, in fact, all their possessions are in common; for they have neither locks nor bars to their doors, and there is a common and continual intercourse between the families of a tribe; indeed, throughout the Confederacy, they seem as one great family, perfectly known and acquainted with each other whenever they meet.

426 "If one goes to another's house and is in want of any necessary that he or she sees, and says, I have need of such a thing, it is regarded
431 only as a polite way of asking for it, and the request is forthwith granted, without ceremony or emotion; for he knows he is welcome to the like generous and friendly return at any time . . ." [3]

If Bartram could have examined actual conditions more intimately he would probably have found that this exchange took place

[1] Hitchcock, Ms. notes. [3] Bartram, Trans. Am. Eth. Soc., vol. III, p. 41.
[2] Adair, Hist. Am. Inds., p. 17.